

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT ANCHORAGE

UNITED STATES OF AMERICA for the
use of NORTH STAR TERMINAL &
STEVEDORE COMPANY, d/b/a NORTHERN
STEVEDORING & HANDLING, and NORTH
STAR TERMINAL & STEVEDORE COMPANY,
d/b/a Northern Stevedoring &
Handling, on its own behalf,

Plaintiffs,

and

UNITED STATES OF AMERICA for the
use of SHORESIDE PETROLEUM, INC.,
d/b/a Marathon Fuel Service, and
SHORE PETROLEUM, INC., d/b/a
Marathon Fuel Service, on its own
behalf,

Intervening Plaintiffs,

and

METCO, INC.,

Intervening Plaintiff,

vs.

NUGGET CONSTRUCTION, INC.; SPENCER
ROCK PRODUCTS, INC.; UNITED
STATES FIDELITY AND GUARANTY
COMPANY; and ROBERT A. LAPORE,

Defendants.

No. A98-009 CIV (HRH)

DEPOSITION OF JEFFREY "JEFF" BENTZ
Pages 1 - 221 (inclusive)

November 21, 2005
8:33 a.m.

Page 2		Page 4	
1		1	I-N-D-E-X
2		2	JEFFREY "JEFF" BENTZ NOVEMBER 21, 2005
3		3	EXAMINATION
4	Taken at:	4	PAGE
5	The Law Offices of Oles Morrison Rinker & Baker	5	BY MS. HO 6
6	745 West 4th Avenue, Suite 502	6	BY MR. VIERGUTZ 209
7	Anchorage, Alaska	7	NUMBER EXHIBITS PAGE
8		8	1 Renotice of Deposition, 9
9		9	6 pages
10	Reported by: Leslie J. Knisley	10	2 North Star's Second 35
11	Shorthand Reporter	11	Supplemental Disclosures, 7 pages
12		12	3 North Star's Responses to 55
13		13	Defendant's First Set of 17 pages
14		14	4 Copy of four business cards, 61
15		15	1 page
16		16	5 North Star's Amended Complaint, 70
17		17	26 pages
18		18	6 Credit application and various 71
19		19	documents, 9 pages
20		20	7 Affidavit of Jack Goodwill, 89
21		21	25 pages
22		22	8 Current rates and invoices, 93
23		23	9 pages
24		24	9 Daily notes of operations, 110
25		25	13 pages
			10 Invoices and timecards, 115
			34 pages

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1	A-P-P-E-A-R-A-N-C-E-S	1	I-N-D-E-X, continued
2	For Plaintiffs:	2	11 Material Contract, 4 pages 143
3	MR. MICHAEL W. SEWRIGHT	3	12 Support agreement, 1 page 145
4	Burr, Pease & Kurtz, PC	4	13 Bill of sale, 1 page 170
5	810 N Street	5	14 Letter to Army Corps of 185
6	Anchorage, AK 99501	6	Engineers, 8/4/97, 2 pages
7	(907) 276-6100	7	15 Copies of two business cards, 188
8	For Shoreside Petroleum:	8	1 page
9	MR. STEVEN J. SHAMBUREK	9	16 Letter from U.S. Army Corps of 194
10	Law Office of Steven J. Shamburek	10	Engineers, 8/21/97, 1 page
11	425 G Street, Suite 630	11	17 Letter to U.S. Army Corps of 196
12	Anchorage, AK 99501	12	Engineers, 8/25/97, 3 pages
13	(907) 250-0044	13	
14	For Nugget Construction, Inc.:	14	
15	MS. GLORIA Y. HO	15	
16	MR. TRAEGER MACHETANZ	16	
17	Oles Morrison Rinker & Baker, PC	17	
18	745 West 4th Avenue, Suite 502	18	
19	Anchorage, AK 99501-2136	19	
20	(907) 258-0106	20	
21	For USF&G:	21	
22	MR. HERBERT A. VIERGUTZ	22	
23	Barokas Martin & Tomlinson	23	
24	1029 West 3rd Avenue, Suite 280	24	
25	Anchorage, AK 99501	25	
	(907) 276-8010		
	Also Present:		
	MR. JOHN SMITHSON, Nugget Construction		
	MR. DOUG LECHNER, Metco, Inc.		
	Reported by:		
	LESLIE J. KNISLEY		
	Shorthand Reporter		

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1 Q And this purports to be a North Star
2 letter signed by Mr. Jack Goodwill, vice
3 president at the time for North Star, dated
4 August 4th, 1997 to the Army Corps of Engineers.
5 Do you disagree with that?
6 A Yes, I disagree with that.
7 Q In what way?
8 A He was vice president of Northern
9 Stevedoring and Handling, not North Star.
10 Q Now, when Jack Goodwill wrote this
11 letter on behalf of Northern Stevedoring and
12 Handling, at the time that was the legal entity
13 that was bringing suit against my client?
14 MR. SEWRIGHT: Object; calls for a
15 legal conclusion.
16 A You characterized Mr. Goodwill as being
17 the vice president of North Star.
18 BY MS. HO:
19 Q My prior statement, you have corrected
20 me. But I'll have you correct that Mr. Jack
21 Goodwill was vice president of Northern
22 Stevedoring and Handling, according to this
23 letter.
24 A That's correct.
25 Q And at that time, on August 4th, 1997,

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1 that particular company, Northern Stevedoring and
2 Handling, was the one notifying the Corps of
3 Engineers --
4 A That's correct.
5 Q Okay. Now, in the first paragraph it
6 says, and you may read along, "Northern
7 Stevedoring has been working for Spencer Rock
8 Products, Inc. from May 1st to June 26th, 1997.
9 In that time frame Northern loaded five barges of
10 rock for the Homer Spit."
11 Do you disagree with that, sir?
12 A Do I disagree with what this says? No.
13 Q With what Mr. Goodwill wrote in his
14 letter to the Army Corps of Engineers.
15 A Not so far.
16 Q Okay. And on page 2, in that last
17 paragraph Mr. Goodwill wrote to the Army Corps of
18 Engineers, "Northern Stevedoring did agree to
19 direct the invoices for loading the rock to the
20 ZB286 Nugget Construction barge, for the Army
21 Corps of Engineers Homer Spit upgrade to Spencer
22 Rock."
23 Do you disagree with that, sir?
24 MR. SEWRIGHT: Object, Counsel.
25 Disagree with that's what was written or that --

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1 BY MS. HO:
2 Q That was what was presented by
3 Mr. Goodwill at the time, who was the vice
4 president of Northern Stevedoring and Handling,
5 to the U.S. Army Corps of Engineers on August
6 4th, 1997.
7 A What you've read is what's on this
8 letter, yes.
9 Q Okay. Do you disagree or -- strike
10 that.
11 To your knowledge did North Star ever
12 communicate to the U.S. Corps of Engineers about
13 its nonpayment of stevedoring services on the
14 Homer Spit project, other than this particular
15 letter to the U.S. Corps of Engineers?
16 A When they sent their investigators up
17 here.
18 Q Okay. Let me show you another exhibit.
19 (Exhibit 15 marked.)
20 BY MS. HO:
21 Q Take a moment to look at this Exhibit
22 No. 15. This particular document was disclosed
23 to me last Thursday when I was at Mr. Sewright's
24 offices reviewing documents.
25 Having looked at this document, it

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1 appears to be copies of two business cards. One,
2 Michael C. Curran, C-u-r-r-a-n, Special Agent,
3 Department of the Army, Criminal Investigation
4 Command, San Francisco Fraud Field Office. And
5 it lists his address and telephone number.
6 That's the first name written there.
7 Do you see that, sir?
8 A Uh-huh.
9 Q And then the second on the bottom part
10 of the document says, Wilbert, W-i-l-b-e-r-t, M.
11 Craig, C-r-a-i-g, Special Agent, Department of
12 the Army, Criminal Investigation Command, and he
13 is at 33 New Montgomery Street, Suite 1840, San
14 Francisco, California 94105.
15 Is that what you see there too, sir?
16 A I see that.
17 Q Okay. Now, at any time did you or
18 anyone at North Star have conversations with
19 either Mr. Curran or Mr. Craig?
20 A Yes.
21 Q Do you recollect the time period of
22 this communication?
23 A I don't. They actually came to my
24 office.
25 Q They came to your office. You don't

48 (Pages 186 to 189)

MIDNIGHT SUN COURT REPORTERS * (907) 258-7100

EXHIBIT 2
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EXHIBIT 5
Page 3 of 6 Pages

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<p style="text-align: right;">Page 190</p> <p>1 recollect the time period, but both these agents, 2 Mr. Curran and Mr. Craig, came to your office at 3 the same time or at separate times? 4 A I believe that both of them came at the 5 same time, and I believe it was these two 6 individuals. 7 Q Okay. Were there any other individuals 8 from the Corps of Engineers, Criminal 9 Investigation Command that came to you or North 10 Star? 11 A Not that I can remember. 12 Q Do you recall if it was just one 13 particular meeting or more than one meeting with 14 these two agents? 15 A I can recall one meeting. Whether 16 there was another one or not or whether they met 17 with somebody else or not, I don't know. 18 Q In that one meeting who do you recall 19 were present? 20 A Well, I know I was there and I know 21 there were two agents there, and I believe Mike 22 might have been there. And if memory holds me 23 true, don't hold me on this, but I think Steve 24 Brazier, who was my controller at the time, was 25 there.</p>	<p style="text-align: right;">Page 192</p> <p>1 A I don't know. 2 Q Do you know if Mr. LaPore was made 3 aware of these alleged investigations? 4 A I don't know. 5 Q What about Nugget? Are you aware that 6 Nugget was made aware of these alleged criminal 7 investigations? 8 A Only through reading the 9 correspondence. At the time I would not have 10 known. 11 Q Anybody else at North Star who might 12 have known? 13 A Not that I can think of. 14 Q Okay. Did you or anyone at North Star 15 receive any confirmation, either written or oral, 16 that an alleged criminal investigation would be 17 pursued after this meeting that you had with 18 these two agents? 19 A No, they didn't tell us what their plan 20 was. 21 Q Okay. 22 A I don't recall any specific comment 23 coming from them in that regard. 24 Q So to your recollection there were no 25 follow-up conversations with Mr. Curran or</p>
<p style="text-align: right;">Page 191</p> <p>1 Q Can you spell his last name, please? 2 A It's B-r-a-z-i-e-r. 3 Q And is Mr. Brazier still with North 4 Star? 5 A No, he moved down south. 6 Q Do you happen to know his whereabouts? 7 A I don't currently. 8 Q Thank you. 9 A He was in Texas last I heard. 10 Q Now, do you have any knowledge of who 11 might have instigated this criminal 12 investigation? 13 A I don't recall all the facts behind it, 14 no. 15 Q Was it perhaps somebody within North 16 Star who would have contacted these agents? 17 A No, I don't believe -- we didn't start 18 the agent thing. We wrote the one letter to the 19 Corps and it was sometime after that, I recall, 20 that these agents showed up. 21 Q Okay. To your knowledge, do you think 22 somebody -- some representative from Metco might 23 have called the special agents? 24 A I don't know. 25 Q Would anybody within North Star know?</p>	<p style="text-align: right;">Page 193</p> <p>1 Mr. Craig? 2 A I'm not certain. This was a long time 3 ago. 4 Q Now, were you or anyone at North Star 5 ever made aware by the U.S. Corps of Engineers 6 that it, the U.S. Corps of Engineers, did not 7 know about the Support Agreement between Nugget 8 and Spencer Rock? 9 A I'm sorry. Can you ask the question 10 again? 11 Q Were you or anyone at North Star ever 12 made aware by the U.S. Corps of Engineers or by 13 anyone else that the U.S. Corps of Engineers did 14 not know about the Support Agreement between 15 Nugget and Spencer Rock? What I'm getting at -- 16 MR. SEWRIGHT: Are you including 17 correspondence from the Corps? 18 MS. HO: Yes, correspondence from the 19 Corps. 20 A There's a letter that came back from 21 the Corps to Jack Goodwill. 22 MS. HO: Okay. Let's see. 23 MR. SEWRIGHT: I think there was also 24 correspondence between Nugget and the Corps, Ms. 25 Ho.</p>

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1 Q You bet. Why can't they?
 2 A They can.
 3 Q Why is it bad faith if they make that
 4 choice?
 5 MR. SEWRIGHT: Object to the form.
 6 A I guess it depends how much knowledge
 7 they have about the case. Early on in this case,
 8 real early on, if I was USF&G, I might believe
 9 what you just suggested might be one of the
 10 possibilities, but I don't believe USF&G believes
 11 that today.
 12 BY MR. VIERGUTZ:
 13 Q And then it says, "and/or refusal to
 14 discuss settlement."
 15 Again, you're a businessman. If you
 16 get sued, you don't have to settle; you and I
 17 have agreed on that, correct?
 18 A Correct.
 19 Q And so you don't even have to discuss
 20 settlement with me if I sue you, do you?
 21 MR. SEWRIGHT: Object to the form.
 22 A Don't have to.
 23 MR. SEWRIGHT: Calls for a legal
 24 conclusion.
 25 A I don't have to.

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1 Q No.
 2 MR. VIERGUTZ: No further questions.
 3 Thanks for your time.
 4 MR. SHAMBUREK: I don't have any.
 5 MR. SEWRIGHT: I have no questions.
 6 We're done.
 7 MS. HO: Right. Thanks for appearing.
 8 (Proceedings concluded at 2:47 p.m.)
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1 WITNESS CERTIFICATE
 2 JEFFREY "JEFF" BENTZ Taken November 21, 2005
 3 I hereby certify that I have read the foregoing
 4 deposition and accept it as true and correct,
 5 with the following exceptions:
 6 =====
 7 PAGE LINE CORRECTION
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____
 Date JEFFREY BENTZ
 (Use additional paper to note corrections as needed,
 signing and dating each page.) (UK)

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1 REPORTER'S CERTIFICATE
 2
 3 I, LESLIE J. KNISLEY, Shorthand Reporter
 4 and Notary Public in and for the State of Alaska do
 5 hereby certify:
 6 That the witness in the foregoing
 7 proceedings was duly sworn; that the proceedings
 8 were then taken before me at the time and place
 9 herein set forth; that the testimony and proceedings
 10 were reported stenographically by me and later
 11 transcribed under my direction by computer
 12 transcription; that the foregoing is a true record
 13 of the testimony and proceedings taken at that
 14 time; that the witness requested signature; and
 15 that I am not a party to nor have I any interest in
 16 the outcome of the action herein contained.
 17 IN WITNESS WHEREOF, I have hereunto
 18 subscribed my hand and affixed my seal this 15th
 19 day of December, 2005.
 20
 21
 22
 23
 24
 25
 LESLIE J. KNISLEY
 Notary Public for Alaska
 My Commission Expires: 12/31/06

45-40
9/18/97

Department of the Army
Criminal Investigation Command

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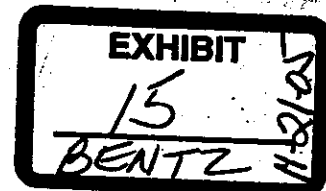


EXHIBIT 5